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Letter dated 6 June 2001 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 31 May 2001 addressed to you by His Excellency Mr. Aytuğ Plümer, Representative of the Turkish Republic of Northern Cyprus (see annex).

I should be grateful if the text of the present letter and its annex were circulated as a document of the General Assembly, under agenda item 64, and of the Security Council.

(*Signed*) Umit **Pamir**
Ambassador
Permanent Representative

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Annex to the letter dated 6 June 2001 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith a copy of the letter dated 31 May 2001 addressed to you by His Excellency Mr. Rauf R. Denktaş, President of the Turkish Republic of Northern Cyprus, in connection with the recent ruling of the European Court of Human Rights on the application made by the Greek Cypriot administration (see enclosure).

I would be grateful if the present letter and its annex were circulated as a document of the General Assembly, under agenda item 64, and of the Security Council.

(*Signed*) Aytuğ **Plümer**
Representative
Turkish Republic of Northern Cyprus

Enclosure

With reference to the ruling of the European Court of Human Rights (ECHR) issued on 10 May 2001 in connection with the fourth application made by the Greek Cypriot administration of Southern Cyprus against Turkey, I feel duty bound to bring to your kind attention the serious implications of this development, both for your efforts and for the prospects of reconciliation on the island.

The Court has concluded that, because of certain decisions and actions taken by the authorities of the Turkish Republic of Northern Cyprus, Turkey has violated certain articles of the European Human Rights Convention. As you are well aware, let alone violating human rights in Cyprus, Turkey, as a guarantor Power, has protected and continues to protect the most basic human rights in the island and, thanks to Turkey, there has been no bloodshed in Cyprus for the past 27 years. Moreover, Turkey has no jurisdiction in the northern part of the island, which is the territory of the Turkish Republic of Northern Cyprus — a sovereign and independent State with its own executive, legislative and judiciary organs. The Turkish Republic of Northern Cyprus, therefore, should have rightfully been the party to the proceedings of the European Court of Human Rights.

As was the case in some previous instances, notably the Loizidou judgement, this decision of the Court too does not take into account the realities and legality in Cyprus, and is based on political considerations. Such decisions of the Court, which consider the Turkish Republic of Northern Cyprus as non-existent, do not change the fact that there exist on the island two sovereign equal peoples and their respective States. This decision will, above all, further encourage the intransigence of the Greek Cypriot administration and make the Cyprus issue even more intractable. It is noteworthy that in the aftermath of the said decision the Greek Cypriot leader, Glafcos Clerides, promptly declared: "The Court by its ruling has given us a powerful weapon in the negotiations" (English-language Greek Cypriot daily *Cyprus Mail*, 12 May 2001).

Mr. Clerides added in a spirit of jubilation: "Now we have a formal decision by the European Court saying that what Denktaş wants, such as to deny refugees the right to return to their homes, violates the European Convention of Human Rights" (*Cyprus Mail*, 12 May 2001).

The negative implications of the said judgement have thus already become evident. Statements emanating from the Greek Cypriot leadership indicate that in the light of the Court's judgement, the Greek Cypriot side will not be willing to entertain any compromise formula that does not guarantee the Greek Cypriot's "right to return" to Northern Cyprus. To this effect, Mr. Clerides has most recently "decreed" that: "a Cyprus solution must be in line with the Euro Court ruling" (*Cyprus Mail*, 19 May 2001).

Indeed, it is reported in the Greek Cypriot press that Mr. Clerides is expected to address a letter to you requesting that "any UN plan for Cyprus comply with the Court's ruling" (*Cyprus Weekly* of 18-24 May 2001).

In a similar vein, the Chairman of the Democratic Party (DIKO), Tassos Papadopoulos, has stated that the Greek Cypriot administration should officially request the United Nations Secretariat to amend the United Nations non-papers presented during the five rounds of proximity talks, in accordance with the findings

of the European Court of Human Rights (report appearing in the Greek Cypriot daily *Alithia*, 19 May 2001).

Meanwhile, encouraged by the ruling, the leader of the Communist AKEL party (Progressive Party of Working People), Dimitris Christofias, declared in a provocative manner during a political rally: "Tonight we are closer than ever to the beloved territory of Kyrenia" (Greek Cypriot press, 19 May 2001).

If indeed the Greek Cypriot administration continues to abuse the European Court of Human Rights and succeeds in extracting decisions with a view to altering the established parameters in its favour, then it will not prove possible to prepare the ground for meaningful negotiations leading to a mutually acceptable and lasting settlement. The Court, by this decision, has dealt a severe blow to your efforts, as it facilitates the attempts of the Greek Cypriot side to pre-empt the substance of a possible agreement, prejudicing the ability of the two parties to engage in free negotiations over core issues.

It must be evident that the purpose of the Greek Cypriot administration in bringing applications before the Court is not to redress any genuine grievance but to exploit its illegal status as the so-called "Government of the Republic of Cyprus". Towards this end, apart from maintaining the false expectation that the Greek Cypriot displaced persons would be returning to the North, the Greek Cypriot side also abuses the purely humanitarian issue of "missing persons" and totally distorts the situation of the Greek Cypriots living in the Turkish Republic of Northern Cyprus.

With regard to the decision of the European Court of Human Rights concerning the "home and property of displaced persons", the Turkish Cypriot party has repeatedly stressed that reciprocal property claims are one of the core issues and that they can be addressed and settled between the two parties within the context of an overall agreement. It should be recalled that one of the parameters agreed upon during past phases of the United Nations-sponsored talks was that, in the particular circumstances of Cyprus, the only realistic and humane way to resolve this issue was, and still is, through a global exchange and/or compensation. It is noteworthy, in this regard, that during the discussions of the United Nations "Set of Ideas" in 1992, the United Nations Legal Adviser was called in to give his legal opinion on the matter of reciprocal property claims. The then Legal Adviser, Carl-August Fleischhauer, gave his opinion to the effect that there were several ways in which the right to property could be recognized and respected. One was restitution, but that was not the only way. It was also possible to recognize and respect the right to property by an exchange of properties and/or compensation. This principle, which supported the Turkish Cypriot position, was also shared by the United Nations and was not objected to by the then Greek Cypriot leader, George Vassiliou, at that stage, as it was subsequently incorporated into the "Set of Ideas" as the principle on which the issue would be resolved. The decision of the European Court of Human Rights, however, ignores this fundamental parameter by upholding the right of return of the Greek Cypriot displaced persons, irrespective of the long-standing United Nations process and the realities prevailing on the island.

The decision also ignores the fact that the two parties in Cyprus have been separated by a "green line" since 1963 and by a ceasefire arrangement since 1974, reached under the auspices of the United Nations. Furthermore, this ruling disregards the fact that an internationally recognized buffer zone, under the control

of the United Nations Peacekeeping Force in Cyprus (UNFICYP), has been established between the respective territories of the Turkish Republic of Northern Cyprus and the Greek Cypriot administration.

The decision further disregards the reality that the voluntary regrouping of the Turkish Cypriot and Greek Cypriot populations under the exchange of populations agreement in 1975 took place upon the consent of both parties, with the assistance of the United Nations. The implications of this agreement are clear and stand to reason. Combined with the established parameter of bi-zonality, which has now assumed a two-State nature, it presupposes the settlement of reciprocal property claims through global exchange and/or compensation. The Greek Cypriot side's difficulty in coming to terms with the voluntary exchange of populations agreement and its inevitable consequences (the separate geographical and political existence of the two peoples) demonstrates that it is not ready for reconciliation.

As we have repeatedly brought to your kind attention, the Greek Cypriot party, encouraged particularly by the European Union's one-sided and misplaced approach to the issue, has turned its back on the concept of a bi-zonal settlement. They have since been talking about a "German-style federation" in which there would be no limits or regulations on the freedom of movement, settlement or the right to property. This would make a mockery of the principle of bi-zonality, which has since evolved into a two-State situation, and is a clear recipe for a return to the past, and, ultimately, for disaster. It should not be forgotten that Germany was one nation divided along ideological lines during the cold war, whereas in Cyprus there have always been two peoples belonging to two different nations.

The Court's finding concerning the "living conditions of Greek Cypriots in Northern Cyprus" is completely unjustified as evidenced by impartial reports, such as the successive reports of the United States Department of State on human rights practices in Cyprus, confirming the respect for human rights in the Turkish Republic of Northern Cyprus.

From the very beginning, every effort has been made by the Turkish Cypriot authorities to minimize the difficulties that the Greek Cypriots may encounter, due mainly to their living away from their community. Their well-being is ensured by the Turkish Republic of Northern Cyprus authorities in cooperation with UNFICYP. All Greek Cypriots living in the Turkish Republic of Northern Cyprus are accorded the same rights and facilities as those accorded to other residents. The living standards of the Greek Cypriots, therefore, are on a par with those of the Turkish Cypriots in the area. The only difficulties the Greek Cypriots may encounter are not because of the policies of Turkish Cypriot authorities, as claimed by the Greek Cypriot administration, but indeed because of the same administration's all-encompassing embargoes imposed on the Turkish Republic of Northern Cyprus. It is very unfortunate that the Greek Cypriot administration is using these people as a political pawn by psychologically conditioning them to conform to the depiction that they are "enclaved" in Northern Cyprus. Judging by its decision, the European Court of Human Rights has not taken into account the successive measures taken by the Turkish Republic of Northern Cyprus, most recently on 5 May 2000, with respect to the living conditions of the Greek Cypriots residing in Northern Cyprus, which have been reflected in the relevant reports of the Secretary-General.

As regards the finding of the Court on "the rights of Greek Cypriot missing persons and their relatives", it should be underlined that the appropriate and, in fact,

the only body competent "to conduct an effective investigation into the whereabouts and the fate of the Greek Cypriot missing persons" is the autonomous tripartite Committee on Missing Persons in Cyprus, established in 1981 by a decision of the United Nations, with agreed terms of reference, following negotiations between the two parties through the good offices of the Special Representative of the Secretary-General in Cyprus. It is also evident from the composition of the Committee, comprising one Turkish Cypriot member, one Greek Cypriot member and a neutral third member nominated by the International Committee of the Red Cross and appointed by the Secretary-General, that Turkey is not a party to this issue. Knowing this fact all too well, the Greek Cypriot side's insistence on portraying Turkey as a party to the issue serves only to obstruct the work of the Committee on Missing Persons in Cyprus and hence is an impediment to the fulfilment of its mandate.

It is very unfortunate that the Greek Cypriot side is abusing the issue of "missing persons", which is a purely humanitarian matter, for political propaganda purposes. The families have been deliberately misled all these years to believe that their loved ones are "prisoners" in Turkey. The intention of the Greek Cypriots on this matter is not to determine the fate of the "missing", but to continue the false propaganda they have been generating for many years on this issue. It should be recalled that, following a series of dramatic disclosures in Southern Cyprus concerning cases of so-called "missing persons" being kept on the missing list in spite of the knowledge that they had been killed during the events of 1974, the Greek Cypriot Foreign Minister, Ioannis Kasoulides, admitted that the Greek Cypriot administration "owed many apologies" to the relatives of the "missing". A Greek Cypriot woman replied to Mr. Kasoulides in a two-line open letter exclaiming: "after 25 years, sorry is not enough" (*Sunday Mail*, 6 June 1999). The Greek Cypriot Defence Minister, Socrates Hasikos, also admitted that "there were mistakes and gaps in the issue of the missing" (*Cyprus Mail*, 10 November 1999).

Clearly, the decision of the European Court of Human Rights cannot be regarded merely as a legal judgement on clear-cut aspects of human rights. Its political ramifications are inextricably linked to the core aspects of the Cyprus issue. The decision of the Court, taken in isolation of the long history of the United Nations process, has only complicated the search for reconciliation on the island. It is evident that the execution of this judgement would mean a return to the pre-1974 period, which is totally out of the question.

We hope and trust that you will provide the relevant authorities of the Council of Europe with the necessary information reflecting the historical, legal and political realities of the island so that the Greek Cypriot side is not allowed to abuse the European legal system to the detriment of your efforts aimed at reconciliation on the island. In the light of the above, we also trust that you will do your utmost to impress upon the Greek Cypriot side the need to desist from taking recourse to the European Court of Human Rights and other forums, with the expectation that it can dictate the terms of a possible settlement on the basis of the ill-advised decisions and one-sided resolutions it has secured.

(*Signed*) Rauf R. **Denktaş**
President